UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- against -

A $20 GOLD COIN, KNOWN AS A 1933 "DOUBLE EAGLE" MINTED AT THE UNITED STATES MINT IN PHILADELPHIA, PENNSYLVANIA,

Defendant-in-Rem.

96 Civ. 2527 (AKH)

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CLAIMANT STEPHEN C. FENTON'S ANSWER TO THE THIRD AMENDED COMPLAINT

JURY TRIAL DEMANDED

Claimant Stephen C. Fenton, by his attorneys Kramer Levin Naftalis & Frankel LLP, answers the Third Amended Complaint as follows:

1. Denies the allegations contained in paragraph 1 of the Third Amended Complaint, except admits that plaintiff purports to seek relief under the cited statutes, refers to those statutes for their full and complete terms, and denies that plaintiff is entitled to any relief under those statutes.

2. Denies the allegation contained in paragraph 2 of the Third Amended Complaint, except admits that plaintiff purports to seek relief under the cited statute, refers to that statute for its full and complete terms, and denies that plaintiff is entitled to any relief under this statute.

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3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Third Amended Complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Third Amended Complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Third Amended Complaint.

6. Admits the allegations contained in paragraph 6 of the Third Amended Complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Third Amended Complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Third Amended Complaint.

9. Denies the allegations contained in paragraph 9 of the Third Amended Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Third Amended Complaint.

11. Denies the allegations of paragraph 11 of the Third Amended Complaint, except admits that the 1933 Double Eagle $20 gold coin is recognized as a rare and valuable United States coin by the numismatic community.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Third Amended Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Third Amended Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Third Amended Complaint.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Third Amended Complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Third Amended Complaint.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Third Amended Complaint.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Third Amended Complaint.

19. Admits the allegations contained in paragraph 19 of the Third Amended Complaint.

20. Denies the allegations contained in paragraph 20 of the Third Amended Complaint and, as to those allegations in paragraph 20 that purport to characterize the terms

of Exhibit A of the Third Amended Complaint, respectfully refers the Court to Exhibit A for its true and accurate terms.

21. Denies the allegations contained in paragraph 21 of the Third Amended Complaint.

22. Admits, on information and belief, the allegations contained in paragraph 22 of the Third Amended Complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Third Amended Complaint, except admits that Stephen C. Fenton met with Jasper Parrino and other individuals at the Waldorf-Astoria Hotel on February 8, 1996.

24. Denies the allegations of paragraph 24 of the Third Amended Complaint, except admits that Mr. Fenton had the 1933 Double Eagle $20 gold coin in his possession at a meeting at the Waldorf-Astoria Hotel on February 8, 1996 and showed it to other individuals present at that meeting.

25. With respect to the allegations of paragraph 25 of the Third Amended Complaint, repeats and realleges his responses to paragraphs 1 through 24 of the Third Amended Complaint.

26. Denies the allegations contained in paragraph 26 of the Third Amended Complaint, except admits that plaintiff purports to seek relief under the cited statutes, refers

to those statutes for their full and complete terms, and denies that plaintiff is entitled to any relief under those statutes.

27. Denies the allegations contained in paragraph 27 of the Third Amended Complaint.

28. Denies the allegations contained in paragraph 28 of the Third Amended Complaint.

29. Denies the allegations contained in paragraph 29 of the Third Amended Complaint.

30. With respect to the allegations of paragraph 30 of the Third Amended Complaint, repeats and realleges his responses to paragraphs 1 through 24 of the Third Amended Complaint.

31. Denies the allegations contained in paragraph 31 of the Third Amended Complaint.

First Affirmative Defense

The Third Amended Complaint fails to state a claim upon which relief can be granted to defeat Mr. Fenton's claim to the 1933 Double Eagle $20 gold coin.

Second Affirmative Defense

The plaintiff lacks probable cause for seizure of the 1933 Double Eagle $20 gold coin.

Third Affirmative Defense

The plaintiff's seizure of the 1933 Double Eagle $20 gold coin is unlawful.

Fourth Affirmative Defense

The plaintiff's seizure of the 1933 Double Eagle $20 gold coin violates international treaties.

Fifth Affirmative Defense

Mr. Fenton's ownership of the 1933 Double Eagle $20 gold coin is authorized by the United States's issuance of an export license for a 1933 Double Eagle $20 gold coin.

Sixth Affirmative Defense

Mr. Fenton's ownership of the 1933 Double Eagle $20 gold coin is authorized by a 1954 Order of the United States Department of the Treasury.

Seventh Affirmative Defense

Mr. Fenton's ownership of the 1933 Double Eagle $20 gold coin is authorized by the Coinage Act of 1965.

Eighth Affirmative Defense

The plaintiff is equitably estopped from seeking forfeiture of the 1933 Double Eagle $20 gold coin or a declaratory judgement that it is the owner of the 1933 Double Eagle $20 gold coin in light of its actions in authorizing and allowing private ownership of a 1933 Double Eagle gold coin.

Ninth Affirmative Defense

The plaintiff is equitably estopped from seeking forfeiture of the 1933 Double Eagle $20 gold coin or a declaratory judgement that it is the owner of the 1933 Double Eagle $20 gold coin in light of its actions in authorizing and allowing private ownership of other similarly situated coins.

Tenth Affirmative Defense

The plaintiff's actions in causing the 1933 Double Eagle $20 gold coin to be imported into the United States constitute entrapment, thus, defeating plaintiff's forfeiture and declaratory judgement claims.

Eleventh Affirmative Defense

Forfeiture of the 1933 Double Eagle $20 gold coin would contravene the Excessive Fines Clause of the Eighth Amendment.

Twelfth Affirmative Defense

The plaintiff's claims are barred by international treaties.

Thirteenth Affirmative Defense

The plaintiff's claims are barred by the doctrine of laches.

Fourteenth Affirmative Defense

The plaintiff's claims are barred by the doctrine of adverse possession.

Fifteenth Affirmative Defense

The plaintiff's claims are barred by the doctrine of unclean hands.

Sixteenth Affirmative Defense

The plaintiff's claims are barred because Mr. Fenton has a superior possessory right to the 1933 Double Eagle $20 gold coin.

Seventeenth Affirmative Defense

The plaintiff's claims are barred by the statute of limitations.

Eighteenth Affirmative Defense

The plaintiff's claims are barred under the rule of the law-merchant because the 1933 Double Eagle $20 gold coin was legal tender at the time title passed to a lawful purchaser.

JURY DEMAND

Please take notice that Mr. Fenton demands trial by jury of the issues and defenses raised by his Claim and Answer.

WHEREFORE, Claimant Stephen C. Fenton respectfully requests that the Court:

(1) Dismiss plaintiff's Third Amended Complaint for forfeiture and enter judgment on behalf of Mr. Fenton;

(2) Deny issuance of a certificate of reasonable cause pursuant to 28 U.S.C. § 2465 and award costs and attorney's fees to Mr. Fenton; and

(3) Provide such other and further relief, both legal and equitable, as the Court deems proper and just.

Dated: New York, New York
May 19, 1999

KRAMER, LEVIN, NAFTALIS & FRANKEL LLP

By: _____
Barry H. Berke (BB 1421)

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